

# United States District Court, Northern District of Illinois

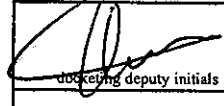


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|--|---|--|----------|
| Name of Assigned Judge or Magistrate Judge | Charles P. Kocoras                          | Sitting Judge if Other than Assigned Judge |          |
| CASE NUMBER                                | 01 C 739                                    | DATE                                       | 6/7/2001 |
| CASE TITLE                                 | Krawczynszyn vs. Outlook Technologies, Inc. |  |          |

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

## MOTION:

## DOCKET ENTRY:

- (1) ☐ Filed motion of [ use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due \_\_\_\_\_.
- (3) ☐ Answer brief to motion due \_\_\_\_\_. Reply to answer brief due \_\_\_\_\_.
- (4) ☐ Ruling/Hearing on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (5) ☒ Status hearing set for 9/6/2001 at 9:30 A.M..
- (6) ☒ Pretrial conference set for 6/26/2001 at 10:00 A.M..
- (7) ☐ Trial[set for/re-set for] on \_\_\_\_\_ at \_\_\_\_\_.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to \_\_\_\_\_ at \_\_\_\_\_.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]  
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Ruling held. **ENTER MEMORANDUM OPINION:** Defendant's motion (Doc 5-1) to dismiss is denied. Plaintiff is granted leave to file the First Amended Complaint attached to Plaintiff's Response to Defendant's Motion to Dismiss. All discovery to be completed by September 6, 2001.
- (11) ☒ [For further detail see order attached to the original minute order.]

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| <input type="checkbox"/>  | No notices required, advised in open court. |  | number of notices<br><b>JUN 11 2001</b><br>date docketed<br><br>docketing deputy initials<br>date mailed notice | <b>Document Number</b><br> |
| <input type="checkbox"/>  | No notices required.                        |  |  |   |
| <input type="checkbox"/>  | Notices mailed by judge's staff.            |  |  |   |
| <input type="checkbox"/>  | Notified counsel by telephone.              |  |  |   |
| <input checked="" type="checkbox"/>   | Docketing to mail notices.                  |  |  |   |
| <input type="checkbox"/>  | Mail AO 450 form.                           |  |  |   |
| <input type="checkbox"/>  | Copy to judge/magistrate judge.             |  |  |   |
| SCT  |   | courtroom deputy's initials                  |  |   |
|   |   | Date/time received in central Clerk's Office | mailing deputy initials  |   |

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

JILL KRAWCZYSZYN,

Plaintiff,

vs.

OUTLOOK TECHNOLOGIES, INC.,

Defendant.

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No. 01 C 0739

**MEMORANDUM OPINION**

**DOCKETED**  
JUN 11 2001

CHARLES P. KOCORAS, District Judge:

This matter is before the Court on Defendant's Rule 12(b)(6) motion to dismiss the complaint. For the reasons set forth below, the motion is denied, and Plaintiff's request for leave to file the First Amended Complaint is granted.

**DISCUSSION**

On a Rule 12(b)(6) motion to dismiss, we are obligated to accept as true the well-pleaded allegations of the complaint. Bontkowski v. First National Bank of Cicero, 998 F.2d 459, 461 (7th Cir. 1993). On April 17, 2000, Plaintiff Jill Krawczyszyn was hired by Defendant Outlook Technologies, Inc. ("Outlook") as the company's Vice President of Sales and Strategy. The terms and conditions of her employment and compensation were set forth in an April 17, 2000 letter agreement (the

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"Agreement") signed by both Krawczynszyn and Anthony Saineghi, Outlook's Chief Financial Officer. The Agreement, which is attached to the proposed First Amended Complaint as Exhibit A, provided that Krawczynszyn's salary would include a base salary plus commissions and a "Stock Option Bonus for Sales." The Agreement further provided that Krawczynszyn would be eligible to participate in Outlook's medical, dental, and 401K plans.

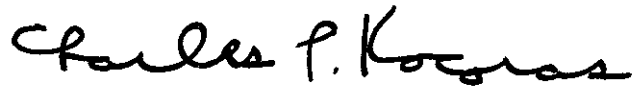
On November 9, 2000, Outlook terminated Krawczynszyn's employment. Krawczynszyn claims that following her termination, Outlook failed to timely provide her with information that would have enabled her to make informed decisions about COBRA health coverage or the exercise of her stock options. She also claims that Outlook owes her compensation for fifteen vacation days she did not take and commissions she earned but did not receive. Krawczynszyn therefore filed this action against Outlook, alleging violations of ERISA and the Illinois Wage Payment and Collection Act.

On April 2, 2001, Outlook moved pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure to dismiss the complaint. Krawczynszyn has responded by requesting leave to file an amended complaint which, she claims, addresses the issues raised in the motion to dismiss. Outlook has not replied or otherwise objected to the filing of the amended complaint.

Pursuant to Rule 15(a) of the Federal Rules of Civil Procedure, a plaintiff may amend the complaint once as a matter of course at any time before a responsive pleading is served. As Outlook has neither answered the complaint nor objected to the filing of the amended complaint, Krawczynszyn's request to file instanter the First Amended Complaint attached to her response to the motion to dismiss is granted. Furthermore, upon review of the First Amended Complaint, we conclude that the arguments in Defendant's motion to dismiss are now moot and deny the motion for that reason.

### CONCLUSION

For the foregoing reasons, the motion to dismiss is denied. Plaintiff is granted leave to file the First Amended Complaint attached to Plaintiff's Response to Defendant's Motion to Dismiss.



Charles P. Kocoras  
United States District Judge

Dated: June 7, 2001